IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 9640 of 2004

Between:

V. Lakshminarayana reddy S/o Narapa Reddy
R/o Narayanareddypet Village Nellore rural Mandal, Nellore District

..... PETITIONER

AND

1 The State Transport Appellate Tribunal Andhra Pradesh, Hyderabad rep by Presiding Officer
2 The Regional Transport Authority Nellore rep by Secretary
3 The Regional Manager, APSRTC. Nellore

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of mandamus or any other appropriate Writ or direction declaring the order of the 1st respondent passed in A.P. No. 52/2003 dated 11-3-2004 in so far remanding the matter to the 2nd respondent instead of granting permit on the route DSRG Hospital to Indukurpet as directed in A.P. No. 93/2003 dated 9-3-2004 as illegal and arbitrary and consequently direct the 2nd respondent to grant permit in favour of the petitioner on the route DSRG Hospital to Indukurpet

Counsel for the Petitioner: MR.O.MANOHAR REDDY, Advocate

Counsel for the Respondents 1 and 2: GP FOR TRANSPORT

Counsel for the Respondent No.3: Mr.K.Srinivasa Rao, S.C. for APSRTC

The Court, at the stage of admission, made the following :

HONOURABLE SRI JUSTICE K.C.BHANU

–

W.P.No.9640 of 2004

–

O R D E R:

The case of the writ petitioner is that he made an application to the 2nd respondent for grant of pucca stage carriage permit on the town service route i.e. D.S.R.G. Hospital to Indukurpet (via) Ambedkar Bhavan, Ambuja, KVSR Petrol Bunk, RTC, Madras bus stand, VRC, Gandhi Statue, Kanakamahal, RTC Bus stand, Nawabpet, Mypadu Gate, Narayanreddypet, Devispet and Kotlur. When it came for consideration before the 2nd respondent, his application was rejected. Then, the petitioner preferred an appeal in A.P.No.52 of 2003, dated 11.3.2004 before the 1st respondent who allowed the appeal by setting aside the order of the 2nd respondent and remitted the matter back to the 2nd respondent to decide the matter afresh by calling for the joint survey report of the route in question from Motor Vehicle Inspector and directing him to conduct the survey in the presence of the petitioner and RTC officials to note the length of the proposed route. In respect of the same route, one I.Venkata Reddy also filed an application before the 2nd respondent and the same was rejected. The said Venkata Reddy questioned the said order by filing an appeal before the 1st respondent, who passed an order in A.P.No.93 of 2003, dated 9.3.2004 setting aside the order of the 2nd respondent-authority and directing him to issue permit to the petitioner therein on the route in question. The contention of the petitioner is that this case is similarly situated and therefore, the order of remand is not proper. Hence, the writ petition is filed.

The learned counsel appearing for the petitioner contended that in

respect of the same route, the 1st respondent directed the 2nd respondent to issue permit to one I.Venkata Reddy but in the case of the petitioner in respect of the same route, the matter has been remitted back to the lower authority to consider the case afresh. Therefore, the finding of the Tribunal is arbitrary and illegal.

The learned Government Pleader for the respondents opposed the same on the ground that it is a matter where the Tribunal ordered remitting back of the matter to the lower authority to consider the case afresh and there are no grounds to interfere with the impugned order. The petitioner applied for grant of pucca stage carriage on the town service route from D.S.R.G. Hospital to Indukurpet. The Tribunal in its order held that on the ground that there is a variation with regard to the length of the route a joint survey report is required to arrive at a correct conclusion. Hence, the order of rejection of the stage carriage permit was set aside and the matter was remitted back to the 2nd respondent to decide the petitioner's case afresh. In respect of the same route i.e. DSRG Hospital to Indukurpet via Ambedkar Bhavan, Ambuja, KVSR Petrol Bunk, RTC, Madras, RTC Bus Stand, VRC, Gandhi Statue, Kanakamahal, RTC Bus Stand, Nawabpet, Mypadu Gate, Narayanareddypet, Devispet, Kothur, the Tribunal directed the 2nd respondent herein to issue a permit to one I.Venkata Reddy in A.P.No.93 of 2003, dated 9.3.2004 within a period of four months on production of valid documents.

Heard both the counsel and perused the material available on record.

It is not in dispute that any number of stage carriage permits can be given on a route approved by the Government. Having allowed the application of I.Venkata Reddy in A.P.No.93 of 2003, dated 9.3.2004, the Tribunal should have directed the authority concerned for issuance of such carriage permit in respect of the case of the petitioner also. In respect of the same route, the Tribunal accepted the case of I.Venkata Reddy but in the case of the petitioner in respect of the same route, the Tribunal remitted the matter back to the competent authority to decide the question at

issue. So, this is a clear arbitrariness exercised by the Tribunal.

In the circumstances, the writ petition can be disposed of with the following direction:

The impugned orders passed by the 1st respondent in A.P.No.52 of 2003, dated 11.3.2004 directing the 2nd respondent to consider the case of the petitioner afresh are set aside and the matter has been remitted back to the 1st respondent with a direction to dispose of the case of the petitioner in terms of A.P.No.93 of 2003, dated 9.3.2004.

The writ petition is accordingly disposed of at the stage of admission. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAT

/TRUE COPY/

SECTION OFFICER

9th July, 2004

bcj

To

1 The Presiding Officer, The State Transport Appellate Tribunal, Andhra Pradesh, Hyderabad
2 The Secretary, The Regional Transport Authority, Nellore
3 The Regional Manager, APSRTC, Nellore

4 Two C.Cs. to the Government Pleader for Transport, High Court Building, Hyderabad (OUT)

5. Two C.D. copies